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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

11 SANTRA F. MATAJCICH , No. 2:21-cv-00911 CKD (SS)
12 Plaintiff,
13 v. ORDER
14 Commissioner of Social Security,
15 Defendant.

18 Plaintiff seeks judicial review of a final decision of the Commissioner of Social Security
19 (“Commissioner”) denying an application for Supplemental Security Income (“SSI”) under Title
20 XVI of the Social Security Act (“Act”). The parties have consented to Magistrate Judge
21 jurisdiction to conduct all proceedings in the case, including the entry of final judgment. For the
22 reasons discussed below, the court will deny plaintiff’s motion for summary judgment and grant
23 the Commissioner’s cross-motion for summary judgment.

24 | BACKGROUND

25 Plaintiff, born in 1980, applied on September 10, 2018 for SSI, alleging disability
26 beginning August 1, 2017. Administrative Transcript (“AT”) 16, 33. Plaintiff alleged she was
27 unable to work due to pulmonary hypertension, sleep apnea, asthma, COPD, thyroid issues,
28 cirrhosis, lumbar stenosis, depression, PTSD, and anxiety. AT 78. In a decision dated October

1 22, 2020, the ALJ determined that plaintiff was not disabled.¹ AT 16-24. The ALJ made the
2 following findings (citations to 20 C.F.R. omitted):

3 1. The claimant has not engaged in substantial gainful activity since
4 September 20, 2018, the application date.

5 2. The claimant has the following severe impairments: asthma with
6 allergic rhinitis; cervical degenerative disc disease; lumbar
7 degenerative disc disease; hepatic steatosis; obesity; metabolic
syndrome; obstructive sleep apnea; gastroesophageal reflux disease
with hiatal hernia; fibromyalgia; tremor; incontinence; post-
traumatic stress disorder; major depressive disorder; and anxiety.

8 3. The claimant does not have an impairment or combination of
9 impairments that meets or medically equals one of the listed
impairments in 20 CFR Part 404, Subpart P, Appendix 1.

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11 ¹ Disability Insurance Benefits are paid to disabled persons who have contributed to the
12 Social Security program, 42 U.S.C. § 401 et seq. Supplemental Security Income is paid to
13 disabled persons with low income. 42 U.S.C. § 1382 et seq. Both provisions define disability, in
14 part, as an “inability to engage in any substantial gainful activity” due to “a medically
15 determinable physical or mental impairment. . . .” 42 U.S.C. §§ 423(d)(1)(a) & 1382c(a)(3)(A).
A parallel five-step sequential evaluation governs eligibility for benefits under both programs.
See 20 C.F.R. §§ 404.1520, 404.1571-76, 416.920 & 416.971-76; Bowen v. Yuckert, 482 U.S.
137, 140-142, 107 S. Ct. 2287 (1987). The following summarizes the sequential evaluation:

16 Step one: Is the claimant engaging in substantial gainful
17 activity? If so, the claimant is found not disabled. If not, proceed to
step two.

18 Step two: Does the claimant have a “severe” impairment? If
19 so, proceed to step three. If not, then a finding of not disabled is
appropriate.

20 Step three: Does the claimant’s impairment or combination
21 of impairments meet or equal an impairment listed in 20 C.F.R., Pt.
404, Subpt. P, App.1? If so, the claimant is automatically determined
disabled. If not, proceed to step four.

22 Step four: Is the claimant capable of performing his past
23 work? If so, the claimant is not disabled. If not, proceed to step five.

24 Step five: Does the claimant have the residual functional
25 capacity to perform any other work? If so, the claimant is not
disabled. If not, the claimant is disabled.

26 Lester v. Chater, 81 F.3d 821, 828 n.5 (9th Cir. 1995).

27 The claimant bears the burden of proof in the first four steps of the sequential evaluation
28 process. Bowen, 482 U.S. at 146 n.5, 107 S. Ct. at 2294 n.5. The Commissioner bears the
burden if the sequential evaluation process proceeds to step five. Id.

1 4. After careful consideration of the entire record, the undersigned
2 finds that the claimant has the residual functional capacity to perform
3 light work, except the claimant can lift and carry 20 pounds
4 occasionally and 10 pounds frequently, and can stand and/or walk for
5 approximately 6 hours and sit for approximately 6 hours, in an 8-
6 hour workday, with normal breaks. The claimant cannot climb
7 ladders, ropes and scaffolds and can occasionally climb stairs and
8 ramps. The claimant can occasionally balance, stoop, kneel, crouch
9 and crawl. She can occasionally reach overhead with the bilateral
10 upper extremities. She can frequently handle and finger, bilaterally.
11 The claimant should have only occasional exposure to wetness,
humidity and atmospheric conditions and no exposure to extreme
cold and extreme heat[.] The claimant can understand, remember
and carry out simple, routine and repetitive instructions and tasks.
The claimant should perform only low stress work, which is defined
as requiring only occasional changes in work setting, occasional
changes in work duties, occasional simple, work-related decision-
making and no work on a moving conveyor belt. The claimant can
have no public contact and occasional coworker and supervisor
interaction. She must be permitted to wear discreet incontinence
undergarments while at work.

12 5. The claimant is unable to perform any past relevant work.²

13 6. The claimant was born on XX/XX/1980, which is defined as a
14 younger individual age 18-49, on the date the application was filed.

15 7. The claimant has at least a high-school education.

16 8. Transferability of job skills is not an issue in this case because the
claimant's past relevant work is unskilled.

17 9. Considering the claimant's age, education, work experience, and
18 residual functional capacity, there are jobs that exist in significant
numbers in the national economy that the claimant can perform.³

19 10. The claimant has not been under a disability, as defined in the
20 Social Security Act, since September 10, 2018, the date the
application was filed.

21 AT 18-34.

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26 ² The ALJ noted that plaintiff had past relevant work as a medical biller, food server, dental
assistant, and caregiver. AT 32.

27 ³ Relying on vocational expert testimony, the ALJ found that plaintiff could perform
28 representative occupations such as routing clerk, merchandise worker, and mail clerk. AT 33-34.

1 **ISSUES PRESENTED**

2 Plaintiff argues that the ALJ committed the following errors in finding plaintiff not
3 disabled: (1) the ALJ erred by failing to account for work-related limitations caused by plaintiff's
4 incontinence; and (2) the ALJ erred by failing to account for work-related impairments caused by
5 plaintiff's headaches.

6 **LEGAL STANDARDS**

7 The court reviews the Commissioner's decision to determine whether (1) it is based on
8 proper legal standards pursuant to 42 U.S.C. § 405(g), and (2) substantial evidence in the record
9 as a whole supports it. Tackett v. Apfel, 180 F.3d 1094, 1097 (9th Cir. 1999). Substantial
10 evidence is more than a mere scintilla, but less than a preponderance. Connett v. Barnhart, 340
11 F.3d 871, 873 (9th Cir. 2003) (citation omitted). It means "such relevant evidence as a reasonable
12 mind might accept as adequate to support a conclusion." Orn v. Astrue, 495 F.3d 625, 630 (9th
13 Cir. 2007), quoting Burch v. Barnhart, 400 F.3d 676, 679 (9th Cir. 2005). "The ALJ is
14 responsible for determining credibility, resolving conflicts in medical testimony, and resolving
15 ambiguities." Edlund v. Massanari, 253 F.3d 1152, 1156 (9th Cir. 2001) (citations omitted).
16 "The court will uphold the ALJ's conclusion when the evidence is susceptible to more than one
17 rational interpretation." Tommasetti v. Astrue, 533 F.3d 1035, 1038 (9th Cir. 2008).

18 The record as a whole must be considered, Howard v. Heckler, 782 F.2d 1484, 1487 (9th
19 Cir. 1986), and both the evidence that supports and the evidence that detracts from the ALJ's
20 conclusion weighed. See Jones v. Heckler, 760 F.2d 993, 995 (9th Cir. 1985). The court may not
21 affirm the ALJ's decision simply by isolating a specific quantum of supporting evidence. Id.; see also Hammock v. Bowen, 879 F.2d 498, 501 (9th Cir. 1989). If substantial evidence supports the
22 administrative findings, or if there is conflicting evidence supporting a finding of either disability
23 or nondisability, the finding of the ALJ is conclusive, see Sprague v. Bowen, 812 F.2d 1226,
24 1229-30 (9th Cir. 1987), and may be set aside only if an improper legal standard was applied in
25 weighing the evidence. See Burkhart v. Bowen, 856 F.2d 1335, 1338 (9th Cir. 1988).

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1 ANALYSIS

2 A. Incontinence

3 At the August 26, 2020 hearing, plaintiff testified that she had worked as a medical biller,
4 waitress, dental assistant, and home health aide. AT 60-61. In 2016, she was working as a track
5 coach when she stopped working in order to care for her infant niece. AT 61, 64. She testified
6 that she “started getting sick” around that time; her alleged disability onset date was August 1,
7 2017. AT 61. Plaintiff testified that, among other health problems, she had chronic bladder and
8 bowel incontinence that “affects me every day.” AT 66. Plaintiff stated that “[i]t’s gotten so
9 severe that I literally poop myself two, three, four times a day. And I have problems with
10 diarrhea.” AT 66. Plaintiff testified that, while the cause of her chronic incontinence was
11 unknown, it was exacerbated by stress or anxiety, and she had to wear adult diapers. AT 66-67.
12 The ALJ asked plaintiff whether the diapers worked to absorb the waste products, and plaintiff
13 testified that they worked “sometimes”; other times, “there’s so much at one time that it still runs
14 down my leg.” AT 68-69. The ALJ summarized this testimony in her decision. AT 23, 25.

15 In her first claim, plaintiff asserts that the ALJ failed to account for work-related
16 impairments caused by plaintiff’s incontinence. The ALJ’s residual functional capacity (RFC)
17 provided that she could perform light work with physical, mental, and social limitations, and that
18 she “must be permitted to wear discreet incontinence undergarments while at work.” Plaintiff
19 argues that

20 such a narrow limitation . . . fails to account for all the practical
21 ramifications of her incontinence, or, for that matter, of the
22 undergarment itself. While an incontinence undergarment protects
23 the worker’s clothing and the employer’s property (chairs, etc.) . . .
24 *the upshot of her RFC is that Plaintiff is required to sit in her own*
25 *waste until her next scheduled break. . . .* This ignores a variety of
26 obvious realities related to sitting in human waste, both for Plaintiff
27 and those around her: Plaintiff’s emotional distress; her increased
risk of skin rash and irritation; her increased risk of a bladder
infection from exposure to bacteria; the smell of adult feces and urine
in a working environment; the potential hazards related to accidents
on the floor; damage to property, such as chairs; and how all of these
might impact working relationships in a competitive employment
setting.

28 (ECF No. 16-2 at 7; emphasis in original).

1 Social Security Ruling 96-8p sets forth the policy interpretation of the Commissioner for
 2 assessing residual functional capacity. SSR 96-8p. Residual functional capacity is what a person
 3 “can still do despite [the individual’s] limitations.” 20 C.F.R. §§ 404.1545(a), 416.945(a) (2003);
 4 see also Valencia v. Heckler, 751 F.2d 1082, 1085 (9th Cir. 1985) (residual functional capacity
 5 reflects current “physical and mental capabilities”). RFC is assessed based on the relevant
 6 evidence in the case record, including the medical history, medical source statements, and
 7 subjective descriptions and observations made by the claimant, family, neighbors, friends, or
 8 other persons. 20 C.F.R. §§ 404.1545(a)(1), 404.1545(a)(3). When assessing RFC, the ALJ must
 9 consider the claimant’s “ability to meet the physical, mental, sensory, and other requirements of
 10 work[.]” 20 C.F.R. §§ 404.1545(a)(4).

11 Here, the ALJ found incontinence to be one of several severe impairments which
 12 “significantly limit the ability to perform basic work activities[.]” AT 19. However, the ALJ
 13 determined that plaintiff’s “symptoms were not as debilitating as she claimed” and that her
 14 “testimony appeared to be marked by exaggeration regarding the severity of her symptoms.” AT
 15 24. Plaintiff does not challenge this adverse credibility finding (which applied to several aspects
 16 of her testimony) in a separate claim; rather, she argues that the ALJ erred in discounting her
 17 testimony about her chronic incontinence. (ECF No. 16-2 at 7-8.) Plaintiff asserts that record
 18 evidence supports her testimony about the nature and severity of this problem. (Id.)

19 The ALJ discussed the credibility of plaintiff’s testimony about her incontinence-related
 20 symptoms, writing: “Although the medical evidence of record documents the claimant’s work-up
 21 for incontinence, treatment records do not document the extreme degree of symptomatology as
 22 alleged by the claimant at the hearing.⁴ The persuasiveness of the claimant’s subjective
 23 complaints are diminished in light of her apparent exaggeration.” AT 25.

24 The ALJ summarized the relevant evidence as follows:

25 • “In January 2017, the claimant began complaining of abdominal pain to primary care
 26 providers. . . . The claimant reported she had regular bowel movements daily in the

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 ⁴ Citing AT 511-524, 584-802, 803-823 (treatment records from 2017, 2018, and 2019).

1 morning, and she denied any difficulty.” AT 26, citing AT 440.

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- 3 “In September 2018, the claimant complained of urinary frequency and urinary
- 4 incontinence. However, she admitted that [these symptoms] were normal for ‘her
- 5 whole life’ since she was sexually molested and had ‘nerve issues’ as it related to the
- 6 pelvic area.” AT 28, citing AT 673 (September 2018 treatment record where plaintiff
- 7 presented for back pain and headache).
- 8
- 9 “The claimant established care with Shasta Orthopedics in September 2018 due to
- 10 complaints of lumbar pain and incontinence.” AT 28, citing AT 803-821.
- 11
- 12 “In February 2019, the claimant was advised that her spine was relatively unlikely to
- 13 be causing the fecal incontinence that was the cause for her referral.” AT 28, citing
- 14 AT 109.
- 15
- 16 “On January 31, 2019, the claimant was seen in the UC Davis Spinal Clinic due to
- 17 worsening fecal incontinence in the setting of presumed lumbar stenosis. The
- 18 claimant indicated it occurred primarily when changing position from sitting to
- 19 standing when she realized she soiled herself. The claimant described her urinary
- 20 incontinence as a sensation of urinary urgency that became more frequent since being
- 21 on Lasix. . . . It was determined that the claimant’s fecal incontinence and urinary
- 22 urgency were unlikely related to the lumbar spine.” AT 28, citing AT 809.
- 23
- 24 “In September 2019, the claimant was seen for metabolic syndrome. . . . The claimant
- 25 detailed one instance she thought she was done stooling, but upon getting up she had
- 26 some bowel ‘leakage.’ . . . Work-up was ordered to help determine the etiology of the
- claimant’s diarrhea.” AT 30, citing AT 1052, 1041.

27 In sum, the ALJ reviewed the medical evidence pertaining to incontinence and found that

28 “treatment records do not document the extreme degree of symptomatology” plaintiff testified to

at the hearing. AT 25. Moreover, the ALJ made the following findings about plaintiff’s

credibility in general:

- 29 “[T]he claimant’s son detailed [her] daily activities to include the following: took her
- 30 children to and from school; cared for a pet dog; cooked and prepared food daily;

1 performed housework (laundry, vacuuming, dusting, dishes), although some days she
2 needed help; could drive ‘perfectly fine’; went shopping once or twice a week . . . ;
3 enjoyed walking and going to the dog park often; went out to the movies, coffee, and
4 lunches, and went to church regularly. These written statements were inconsistent
5 with the claimant’s testimony and subjective complaints[.]” AT 24, citing AT 247-
6 254 (April 2019 third-party function report).]

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- 8 • “The record includes statements by the claimant’s own provider suggesting the
9 claimant was engaging in possible misrepresentation. . . . The persuasiveness of the
10 claimant’s subjective complaints are diminished in light of this apparent
11 inconsistency.” AT 25, citing AT 467-468 (November 2017 physical therapy note
12 stating that “[t]he fact that plaintiff is a housekeeper and works full-time is
13 inconsistent with her complaints of hip, neck, and shoulder pain.”).
- 14 • “[E]vidence suggests that the claimant had a history of being paid cash or otherwise
15 for work that was not reported to the Social Security Administration or on tax returns.
16 . . . This evidence . . . indicates that the claimant’s daily activities have, at least at
17 times, been significantly greater than the claimant has generally reported. The
18 claimant’s apparent ability to work during the period of adjudication is inconsistent
19 with her allegations of disabling functional limitations.” AT 25-26, citing AT 789
20 (June 2017 treatment note stating that plaintiff “cleans houses for a living and spends
21 most of the day on her feet”); AT 469 (November 2017 treatment note stating: “The
22 fact that she is a housekeeper and works full-time is inconsistent with her complaints
23 of hip, neck, and shoulder pain.”); AT 475 (December 2018 treatment note stating that
24 plaintiff “cleans houses for a living”); AT 496 (December 2018 treatment note
25 referring to plaintiff’s job cleaning houses).
- 26 • “Despite the claimant’s subjective complaints of incapacitating limitations, the
27 claimant’s activities of daily living have at times been greater than the claimant
28 generally reported, including working full-time as a housekeeper and caring for
multiple children in the home[.]” AT 31.

1 Based on the foregoing, the ALJ found plaintiff to be exaggerating her symptoms, and the
2 court finds no reason not to defer to the ALJ's credibility analysis. See Saelee v. Chater, 94 F.3d
3 520, 522 (9th Cir. 1995) (the ALJ determines whether a disability applicant is credible, and the
4 court defers to the ALJ's discretion if the ALJ used the proper process and provided proper
5 reasons). The ALJ concluded that evidence that plaintiff worked full-time as a housekeeper and
6 was able to perform a normal range of daily activities was inconsistent with her claims of
7 debilitating incontinence; however, the ALJ credited plaintiff's testimony that she needed to wear
8 an adult diaper, and this was reflected in the RFC. The ALJ also credited the opinions of two
9 medical consultants, Dr. L. Pancho and Dr. Kim Rowlands, both of whom reviewed the
10 longitudinal record and opined that plaintiff could perform light work with some limitations;
11 neither opined as to any limitations related to incontinence. AT 31, citing AT 85-86, 102-104. In
12 light of the above, the RFC regarding incontinence was adequately explained and grounded in
13 substantial evidence.

14 B. Headaches

15 Plaintiff next claims that the ALJ erred by failing to account for work-related impairments
16 caused by plaintiff's headaches.

17 At the August 2020 hearing, plaintiff testified that her main impairments were PTSD and
18 edema. AT 62. She also testified to chronic incontinence and sleepiness requiring her to nap
19 multiple times a day. AT 65-68. Plaintiff did not testify about headaches or any functional
20 limitations due to headaches. See AT 23 (summary of testimony as to physical symptoms).

21 The ALJ did not find plaintiff's headaches a severe impairment; rather, she found that
22 plaintiff's headache symptoms "have been accounted for as symptoms of cervical degenerative
23 disc disease, lumbar degenerative disc disease, and fibromyalgia." AT 29. The RFC does not
24 include any limitations related to headaches or light sensitivity.

25 Plaintiff asserts that the RFC does not incorporate the "numerous references to
26 photophobia in the record" or evidence that plaintiff's headaches are related to neck movement.
27 (ECF No. 16-2 at 10.) Plaintiff cites an April 2019 doctor's visit in which she presented for
28 headaches, describing them as severe and aggravated by bright lights and noise. AT 584.

1 Plaintiff stated that these symptoms were relieved by over-the-counter medication.⁵ AT 584.
2 Plaintiff argues that her headaches should have “result[ed] in limitations such as needing to rest in
3 the dark.” (ECF No. 16-2 at 11.)

4 In reviewing the medical record, the ALJ noted that plaintiff “complained of headaches,
5 which appeared to be related to her neck pain. . . . The claimant reported relief of symptoms with
6 over-the-counter pain medications, rest, manipulation, and gabapentin. The claimant reported
7 chiropractic treatment was helping with her back pain and headaches.” AT 27. The ALJ also
8 considered a March 2020 MRI of the cervical spine, which showed mild findings. AT 29. As
9 noted above, the ALJ credited the opinions of the two consulting physicians, who found that
10 plaintiff could perform light work; neither opined that there were any limitations related to
11 headaches or photophobia. AT 31, citing AT 85-86, 102-104.

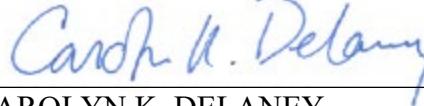
12 Plaintiff has not shown reversible error as to the ALJ’s failure to incorporate headache-related
13 limitations in the RFC. As above, the court finds that the RFC was adequately explained and
14 grounded in substantial evidence.

15 CONCLUSION

16 For the reasons stated herein, IT IS HEREBY ORDERED that:

17 1. Plaintiff’s motion for summary judgment (ECF No. 16) is denied;
18 2. The Commissioner’s cross-motion for summary judgment (ECF No. 18) is granted;
19 and
20 3. Judgment is entered for the Commissioner.

21 Dated: November 7, 2022


CAROLYN K. DELANEY

UNITED STATES MAGISTRATE JUDGE

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25
26 ⁵ Plaintiff asserts in her brief that headaches “prevent her from driving”; however, this contradicts
27 evidence that plaintiff took her children to and from school daily and went to doctor’s
28 appointments, the grocery store, and other places. In his third-party function report, her adult son
stated: “She can drive perfectly fine.” AT 250.